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## BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF: )

ELLIOT CROSBY )

dba ADVANCE SENIOR ESTATE ) DOCKET NO.  
PLANNING ) S-03510A-02-000010253 East Jerome )  
Mesa, Arizona 85208 ) PREHEARING CONFERENCE

MARSHA CROSBY )

2145 East Juanita )  
Mesa, AZ 85204 )

At: Phoenix, Arizona

Date: March 3, 2003

Filed: MAR 14 2003

REPORTER'S TRANSCRIPT OF PROCEEDINGS

## ARIZONA REPORTING SERVICE, INC.

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1 BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on regularly to be heard before  
3 the Arizona Corporation Commission, in a conference  
4 room of said Commission, 1200 West Washington Street,  
5 Phoenix, Arizona, commencing at 9:00 a.m. on the 3rd  
6 day of March, 2003.

7  
8 BEFORE: PHILIP J. DION III, Administrative Law Judge

9  
10 APPEARANCES:

11 For the Securities Division:

12 Ms. Kathleen Coughenour DeLaRosa  
13 Attorney  
14 1300 West Washington  
Phoenix, Arizona 85007

15 For Mr. Crosby:

16 JONES, SKELTON & HOCHULI  
17 By Mr. A. Melvin McDonald  
18 2901 North Central Avenue, Suite 800  
Phoenix, Arizona 85012

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MAR 14 2003

ARIZONA CORPORATION COMMISSION  
HEARING DIVISION

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1 ALJ DION: Good morning, and welcome,  
2 everyone, to the Arizona Corporation Commission. My  
3 name is Phil Dion, I'll be the presiding  
4 administrative law judge in this matter.

5 This is the time set for the prehearing in  
6 S-3510A-02-0000. It's the matter of Elliot Crosby,  
7 dba Advance Senior Estate Planning. I'll go ahead and  
8 start with appearances, and I'll start with the  
9 Division.

10 MS. DELAROSA: Thank you, Mr. Dion, Kathleen  
11 Coughenour DeLaRosa, attorney for the Division.

12 MR. NELSON: Terry Nelson, investigator for  
13 the Division.

14 ALJ DION: On behalf of Mr. Crosby.

15 MR. MCDONALD: Mel McDonald on behalf of  
16 Elliot Crosby.

17 ALJ DION: Good morning, everybody. We've  
18 had about a 10-minute off-the-record discussion, just  
19 mostly procedural stuff. Sum and substance is that I  
20 understand that this case is going to take about three  
21 days if it goes to hearing. Each side, as they sit  
22 today, think they'll have two to three witnesses. And  
23 there seems to be an issue regarding the service of  
24 Mr. Crosby's ex-wife, and that is going to be  
25 addressed. Currently, the Crosbys, they are divorced,

1 and Mr. McDonald represents Mr. Crosby. However,  
2 we're a little concerned about the service of process  
3 on Mr. Crosby's ex-wife, who I'm simply going to call  
4 Mrs. Crosby because I don't know if she goes by any  
5 other name at this point. So in order to address  
6 that, additionally, based upon the Hearing Division  
7 schedule and the fact that the sides have indicated  
8 they're still negotiating a possible resolution short  
9 of hearing, we're going to set this case for June  
10 23rd.

11 Mr. McDonald, your client is in town?

12 MR. MCDONALD: He is. He called and he's a  
13 little under the weather, I said I'll just go, so we  
14 waive his appearance.

15 ALJ DION: That's fine. We usually do things  
16 around 10:00 around here. That's really more of a  
17 convenience for kind of more the utility cases, if  
18 people were coming from Page or things like that,  
19 10:00 is a little more palatable to them.

20 Do you have any objection starting at 9:00 so  
21 we can get a fuller day in?

22 MR. MCDONALD: You mean on the 23rd?

23 ALJ DION: On the 23rd.

24 MR. MCDONALD: That would be fine.

25 ALJ DION: Ms. DeLaRosa, before my question

1 to Mr. McDonald, my summary of our discussion, is that  
2 your recollection of what happened?

3 MS. DELAROSA: Yes, sir.

4 ALJ DION: Anything to add?

5 MS. DELAROSA: Not that I can think of, sir.

6 ALJ DION: Mr. McDonald?

7 MR. MCDONALD: No, you've covered it.

8 ALJ DION: So it's my understanding that the  
9 Division will attempt service of process on  
10 Mrs. Crosby, and once that occurs, I understand that  
11 negotiations can probably go on in more earnest  
12 because you're missing, really just missing a piece of  
13 the puzzle without her presence.

14 And it's my understanding, Mr. McDonald, that  
15 you represent Mr. Crosby; is that correct?

16 MR. MCDONALD: That's correct.

17 ALJ DION: If there was a filing you made in  
18 which you were the respondents, meaning plural,  
19 instead of just respondent, that was an error; is that  
20 correct?

21 MR. MCDONALD: Actually, I don't think I did.  
22 In looking at the answer, I think I was pretty careful  
23 to put it in the singular. If in fact I did pluralize  
24 it in any area, that was unintentional. I took  
25 special pain, when I filed this answer, to not tread

1 on Mrs. Crosby's water because I do not represent her  
2 and have never spoken to her.

3 ALJ DION: I'm specifically looking at the  
4 January 8th filing of a request for hearing, comes now  
5 Elliot Crosby and Marsha Crosby, respondents.

6 MR. MCDONALD: Then I guess I'm thinking of  
7 the answer and not the request for hearing, so I do  
8 not speak for her, and would amend that language to  
9 just refer to Elliot Crosby.

10 ALJ DION: Okay. With that, because it  
11 appears as though Mrs. Crosby was represented by you  
12 and I've now subsequently learned that they're  
13 divorced and she does have her own attorney, or at  
14 least she did for the divorce, I'm going to extend the  
15 time for her to request a hearing in this case.

16 I'm going to do that based upon the  
17 Division's belief that she had requested a hearing,  
18 and it didn't further follow up with any sort of  
19 personal service. Now, I understand that there has  
20 been some difficulty in serving her, and that the  
21 Division will go through the motions, so to speak, but  
22 they will either personally serve her or assure that  
23 she will get some sort of service and give her that  
24 same 10-day opportunity from the time she's served to  
25 file for a request for hearing. And then if she does

1 do that then we'll just get together probably at the  
2 procedural conference. That will give some time for  
3 you guys to give me a little update as to where we  
4 are.

5 The other issue that I do want to make clear  
6 on the record is that Mr. McDonald has represented a  
7 number of people, but in this particular case, he  
8 reminded me he represented the entity City of Phoenix,  
9 and approximately two years ago my brother and my  
10 family filed a Bar complaint against the city  
11 prosecutor and subsequently, Mr. McDonald, I don't  
12 think there was a suit that was actually filed, I  
13 think it was just a Bar complaint.

14 MR. MCDONALD: It was a Bar complaint where  
15 there were answers, motions, and it involved multiple  
16 people with the City of Phoenix that I represented. I  
17 represented four people there, including the city  
18 prosecutor, the trial attorney, the city attorney, so  
19 it was a pretty huge thing in their eyes.

20 ALJ DION: Sure, but I just want to make sure  
21 I've categorized it correctly. I don't remember it  
22 actually being a civil suit.

23 MR. MCDONALD: No, it was not a civil suit.  
24 It was strictly a Bar complaint.

25 ALJ DION: It was a Bar complaint that was



1 filed, and Mr. McDonald represented the city and those  
2 various employees that he mentioned. And as I recall,  
3 nothing was done by the Bar. I think it just...

4 MR. MCDONALD: That's correct. We asked that  
5 it be dismissed, and it was ultimately dismissed. I  
6 think your father and your brother, but mainly your  
7 father, was the complainant in the Bar complaint.

8 ALJ DION: Okay. And I would defer to  
9 Mr. McDonald's memory because it was a couple of years  
10 ago and he was much more involved in it at the time  
11 than I was. But in any event, that did occur and so  
12 Mr. McDonald brought that up.

13 I have told Mr. McDonald that, as I said, I  
14 had really forgotten about that until he mentioned it  
15 this morning. And as a former county attorney for  
16 five plus years, I had the opportunity to cross paths  
17 with Mr. McDonald on a couple of occasions.

18 MR. MCDONALD: He was usually beating me up  
19 during those times, too.

20 ALJ DION: I find that we don't get to beat  
21 each other up as much as the facts tend to beat us up  
22 sometimes on both sides. But in any event, I've told  
23 Mr. McDonald that I don't have a prejudice towards his  
24 client because of my past experience as prosecutor,  
25 nor the Bar complaint filed by members of my family.

1     However, he has indicated that he feels the need to  
2     inform his client of such information, and may be  
3     filing a motion sometime in the future. But I just  
4     wanted that to be in the record from the procedural  
5     conference, that he did make mention of that.

6             Anything else Ms. DeLaRosa?

7             MS. DELAROSA: No, sir.

8             MR. MCDONALD: Nothing else. Thank you, Your  
9     Honor.

10            ALJ DION: In that case, we'll go ahead and  
11     close the record on this procedural conference.

12            As I said, we'll start June 23rd at 9:00 a.m.  
13     and we'll be set for approximately three days. Good  
14     day, everyone. 9:30.

15            (The prehearing conference concluded at  
16     9:30 a.m.)

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1 STATE OF ARIZONA )  
2 COUNTY OF MARICOPA ) ss.  
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9 certify that the foregoing printed pages constitute a  
10 full, true and accurate transcript of the proceedings  
11 had in the foregoing matter, all done to the best of  
12 my skill and ability.

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14 WITNESS my hand this 9th day  
15 of March, 2003.  
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Certified Court Reporter  
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